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NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

LYDIA SMITH,

Petitioner - Appellant,

v.

DAWN DAVISON, Warden,

Respondent - Appellee.

No. 06-55325

D.C. No. CV-05-05811-CJC

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted October 22, 2007^{**}

Before: B. FLETCHER, WARDLAW, and IKUTA, Circuit Judges.

California state prisoner Lydia Smith appeals *pro se* from the district court's judgment denying her habeas petition under 28 U.S.C. § 2254. We have

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction under 28 U.S.C. §§ 1291 and 2253. We review *de novo*, *Sass v. Cal. Bd. of Prison Terms*, 461 F.3d 1123, 1126 (9th Cir. 2006), and we affirm.

We reject as foreclosed appellee’s contention that we lack jurisdiction to entertain this appeal because Smith has not obtained a certificate of appealability. *See Rosas v. Nielsen*, 428 F.3d 1229, 1231-32 (9th Cir. 2005) (per curiam). Because no such certificate is required, *see id.*, we need not decide whether Smith has made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Smith contends that the 2004 decision of the California Board of Prison Terms (“the Board”) to deny her parole violated her due process rights. After reviewing the record, we conclude that “some evidence” supports the Board’s decision. *See Superintendent v. Hill*, 472 U.S. 445, 455 (1985). Accordingly, the California Court of Appeal’s decision was not an unreasonable application of federal law. *See* 28 U.S.C. § 2254(d)(1).

Furthermore, because the “some evidence” standard does not allow us to reweigh the evidence before the Board, we decline Smith’s invitation to view the psychiatric report in a different manner than the Board did. *See Hill*, 472 U.S. at 455.

To the extent Smith asserts a violation of California law stemming from the Board's decision, we cannot grant federal habeas corpus relief on such a claim.

See Lewis v. Jeffers, 497 U.S. 764, 780 (1990).

AFFIRMED.